

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 6/11-13/03

W11 & W12

TO: Commissioners and Interested Persons

FROM: Deborah Lee, District Director
Teresa Henry, District Manager
Anne Blemker, Coastal Program Analyst

SUBJECT: **PWP 4-82-A2 CRYSTAL COVE PUBLIC WORKS PLAN AMENDMENT and PWP 4-82-14 CRYSTAL COVE PUBLIC WORKS SPECIFIC PROJECT.** For public hearing and Commission action at its meeting of June 11-13, 2003, to be held at the Queen Mary, Long Beach.

SUMMARY OF STAFF REPORT

DESCRIPTION OF THE PUBLIC WORKS PLAN AMENDMENT and SPECIFIC PROJECT REQUEST

The California Department of Parks and Recreation (DPR) has submitted an application to amend the *Crystal Cove Public Works Plan*, and also requests Commission concurrence to implement specific projects referenced in the proposed amendment. The Commission approved the *Crystal Cove Public Works Plan* in May of 1982 (PWP 4-82). As a condition of approval of that plan, the Commission required submittal of the *Crystal Cove Historic District Development and Public Use Plan* and *On-Site Maintenance Program*. The proposed public works plan amendment would replace those documents with the *Crystal Cove Historic District Preservation and Public Use Plan* (PPUP), recently approved by the State Parks and Recreation Commission (PRC). DPR also requests specific project review of "First Phase Implementation" activities associated with the PPUP, including cottage rehabilitation, adaptive reuse of the structures, public access improvements and utility upgrades.

The standard of review for the amendment to the *Crystal Cove Public Works Plan* is consistency with the Coastal Act (CCR Title 14, Section 13356 (b)), because no local coastal program was certified within the subject area at the time the Crystal Cove PWP was originally approved. The Newport Coast LCP has since been certified and affects property surrounding Crystal Cove State Park, but does not affect the park itself. The standard of review for a specific project submitted concurrently with the public works plan amendment is also the Coastal Act (CCR Title 14, Section 13358 (a)).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve with conditions** the proposed Public Works Plan amendment submitted by the California Department of Parks and Recreation for the reasons given in this report. Staff also recommends that the Commission **approve with conditions** the specific project request.

SUMMARY OF ISSUES

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The proposed Public Works Plan amendment will substantially change and update all components of the Crystal Cove State Park PWP relating to the Historic District. Concerns with the proposed amendment include 1) clarification of the minimum and maximum number of cottages provided for each program; 2) occupancy range for cottages in the Overnight Accommodations program; 3) rate structure parameters for the Overnight Accommodations program; 4) maximum provision of public parking; 5) environmentally sensitive habitat area; and 6) typographical corrections and clarifications.

The proposed specific project will allow State Parks to undertake First Phase implementation activities, including cottage renovation, road widening, utility updates and access improvements. These activities are illustrated in Exhibit 9. Concerns with the corresponding specific project include 1) clarification of the specific number of cottages provided for each program in the First Phase; 2) identification of the specific number of overnight accommodations provided in the First Phase; 3) specific rate charged for overnight accommodations in the First Phase; 4) siting of the new stairway at Pacific Coast Highway; 5) use of the new 20-space parking lot; 6) coastal sage scrub mitigation; 7) future shoreline protection; 8) assumption of risk and 9) construction-related best management practices (BMPs).

ADDITIONAL INFORMATION

For further information about this report or the public works plan process, please contact Anne Blemker, Coastal Program Analyst, at 200 Oceangate, Suite 1000, Long Beach; Telephone (562) 590-5071.

EXHIBITS

1. Vicinity Map
2. Crystal Cove State Park Map
3. MOU Between State Parks and Coastal Commission
4. Planning Areas Map
5. Chart H—Matrix of Adaptive Uses
6. Adaptive Uses Map
7. General Plan Amendment Language
8. FEIR Project Description
9. First Phase Project Plans
10. Summary of Consultation with Local Staff
11. DPR Staff Directed Changes
12. CCSP First Phase Spreadsheet
13. Fiscal/Operations Plan
14. Sensitive Terrestrial Species Map

1. Staff Recommendation: Motions and Resolutions

A. Approval of Public Works Plan Amendment

Staff recommends that the Commission, after public hearing, **approve** the proposed public works plan amendment subject to the modifications below. Staff recommends a **YES** vote on the following motion. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

***Motion.** I move that the Commission approve Crystal Cove Public Works Plan Amendment PWP 4-82-A2 submitted by the California Department of Parks and Recreation, as conditioned.*

***Resolution.** The Commission finds that proposed Crystal Cove Public Works Plan Amendment PWP 4-82-A2, as modified, is in conformity with the provisions of Chapter 3 of the Coastal Act; and that there are no feasible alternatives, or feasible mitigation measures available, as provided in the California Environmental Quality Act, which would lessen any significant adverse impact that the development as finally proposed and conditioned may have on the environment.*

B. Approval of Public Works Specific Project

Staff recommends that the Commission, after public hearing, **approve** the proposed public works specific project subject to the conditions below. Staff recommends a **YES** vote on the motion that would result in approval of the project, as conditioned. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

***Motion.** I move that the Commission approve proposed public works project PWP 4-82-14 contained in the Crystal Cove Public Works Plan Amendment (PWP 4-82-A2) submitted by the Department of Parks and Recreation, as conditioned.*

***Resolution.** The Commission hereby **approves** the specific project proposed to be undertaken at the Crystal Cove Historic District, on the grounds that the developments, as conditioned, will be in conformity with the provisions of Chapter 3 of the Coastal Act, as conditioned, and that there are no feasible alternatives, or feasible mitigation measures available, as provided in the California Environmental Quality Act, which would lessen any significant adverse impact that the development as finally proposed and conditioned would lessen any significant adverse impact that the development as finally proposed and conditioned may have on the environment.*

2. Recommended Conditions

Recommended Conditions for Crystal Cove Public Works Plan Amendment (PWP-4-82-A2)

1. Program Use of Cottages

The Public Works Plan shall establish a minimum and maximum number of cottages to be utilized for each program.¹ No more than eight (8) cottages shall be used for the Operations Program. The PWP shall include an explanation of the variables that will affect the exact number of cottages serving each program.

2. Cottage Occupancy

The Public Works Plan shall specify the minimum and maximum number of occupants allowed in each cottage designated for overnight use. A minimum of 65 overnight occupants must be accommodated in the cottages within the First Phase Implementation.

3. Rate Structure

The Public Works Plan shall establish the parameters for the overnight accommodations rate structure, consistent with the Fiscal/Operations Plan attached as Exhibit 13. The rates charged for overnight accommodations shall be maintained at a rate comparable with fees charged at similar State Parks system facilities.

4. Parking

To ensure maximum public parking at the Los Trancos Parking Lot and the new Blufftop Parking Lot, the following restrictions shall be included in the PWP:

- a) The permanent use of the Los Trancos office shall be limited to Crystal Cove Historic District dependent functions.
- b) The use of the new twenty-space parking lot within the Blufftop Area shall be allocated as follows: Ten (10) spaces for 15-minute overnight check-in, visitor orientation and deliveries, two (2) spaces for authorized State Parks vehicles, and eight (8) spaces to serve activities at the Cultural Center.

5. Environmentally Sensitive Habitat Area

The Public Works Plan shall incorporate a revised policy for addressing impacts to environmentally sensitive habitat areas, including coastal sage scrub (CSS), which requires the following:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

¹ The PPUP identifies four program areas: 1) Operations Program, 2) Interpretation and Community Arts, Resources and Education Program, 3) Overnight Accommodations and Rentals Program and 4) the Visitor Services Concession Program.

- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.
- (c) Future development that affects potentially sensitive habitat area must come back to the Commission for specific project review or a coastal development permit. A site-specific biological survey must accompany any specific project proposal or CDP application so that a determination of ESHA can be made.

6. Edits and Corrections

The following corrections and updates shall be incorporated into the final PWP:

- Incorporate “Staff Directed Changes,” attached as Exhibit 11, into text of document.
- Revise Chart H (Matrix of Adaptive Uses) to reflect currently proposed uses of Cottage 17 (Operations) and Cottage 27 (Overnight Accommodations)
- Revise Map 5 (Historic District Adaptive Building Uses Map) and Map 6 (Adaptive Use) to reflect currently proposed uses of Cottage 17 (Operations-Green) and Cottage 27 (Overnight-Pink).
- Add a note to Map 5 and Map 6 stating that the maps are illustrative and may be revised to include additional overnight accommodations in the future, consistent with Conditions 1-3.
- Correct misspelling in Map 3 as follows: “Fire Protection Vehicle Access”

Recommended Crystal Cove Public Works Plan Specific Project Conditions (PWP-4-82-14)

1. Cottage Use in First Phase

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the California Department of Parks and Recreation shall identify the specific number of cottages used for each program in the First Phase Implementation of the CCHD rehabilitation.

2. Overnight Accommodations in First Phase

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the California Department of Parks and Recreation shall identify a specific number of overnight accommodations to be provided in the First Phase Implementation of the CCHD rehabilitation. The PWP shall identify the specific number of occupants to be housed in each cottage.

3. Overnight Accommodations Rate

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the California Department of Parks and Recreation shall provide a specific rate structure for the overnight accommodations provided in the First Phase Implementation.

4. New Stairway Alignment

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the California Department of Parks and Recreation shall submit final plans of the new stairway leading from the Historic District South Beach to Pacific Coast Highway for the review and approval of the Executive Director. The plans shall demonstrate:

- The stairway footprint will be limited to the minimum size necessary to provide safe access;
- There will be no encroachment into coastal sage scrub habitat.

Development shall be carried out in accordance with the approved plan.

5. New Parking Lot

PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE PARKING LOT, the California Department of Parks and Recreation shall submit final plans for the new 20-space parking lot in the Blufftop Area for the review and approval of the Executive Director. The plans shall demonstrate:

- The parking lot will provide ten (10) spaces for 15 minute overnight check in, visitor orientation and deliveries; two (2) spaces for authorized State Parks vehicles and eight (8) spaces for the cultural center and other parking related to scheduled on-site activities.
- Signage and/or stenciling will be provided to identify the parking restrictions referenced above. Time limits shall be clearly posted.

Development shall be carried out in accordance with the approved plan.

6. Coastal Sage Scrub Mitigation

To minimize the impact of the First Phase Implementation activities on sensitive wildlife species, Coastal Sage Scrub (CSS) habitat will be monitored by a qualified biologist during the gnatcatcher breeding season (annually) to determine the extent of gnatcatcher habitat that may be affected by proposed development. Development affecting CSS habitat that is not being historically utilized for gnatcatcher habitat shall be mitigated at a replacement ration of 2:1 (2 acres replaced for every acre impacted) within the coastal portion (seaward side of PCH) of Crystal Cove State Park. The removal of any qualifying CSS vegetation shall occur during the gnatcatcher's non-breeding season (September 1 through February 14 of any year). During any CSS removal operations, a qualified biologist shall monitor CSS removal operations to assure that project activities are not disturbing any sensitive species. In the event that project activities disturb sensitive species, the impacting activities shall be either rescheduled or modified to avoid impacts. CSS habitat which historically supports gnatcatchers shall not be disturbed or otherwise removed to facilitate proposed development. Mitigation credits from the NCCP/HCP cannot be applied to fulfill the replacement requirement.

7. Assumption of Risk, Waiver of Liability, and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site of the Crystal Cove Historic District may be subject to hazards from waves, storm events, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defiance of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. Prior to any conveyance of the property that is the subject of this coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- C. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

8. No Future Shoreline Protective Device

- A(1) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the Historic District improvements approved pursuant to PWP Specific Project 4-82-14 including, but not limited to, the repaired cottages and boardwalk, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2) By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the permittee and/or landowner shall remove the development authorized by this permit, including the restroom structure and stairway, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the

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development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- A(3) In the event the shoreline recedes to within 10 feet of the cottages but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the permittee, that addresses whether any portions of the development is threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the boardwalk and/or cottages without shoreline protection including, but not limited to, removal or relocation of portions of the development. If the geotechnical report concludes that the cottages or any portion of the development is unsafe, the permittee shall, in accordance with a coastal development permit, remove the threatened portion of the development.
- B. Prior to any conveyance of the property that is the subject of this coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- C. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

9. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The California Department of Parks and Recreation shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be allowed to enter coastal waters;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction related materials, sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be

discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

3. Recommended Findings

The Commissions finds and declares as follows:

A. Public Works Plan and Project Background

The California Department of Parks and Recreation (DPR) has submitted a request to amend the *Crystal Cove Public Works Plan (PWP)*, and also requested Commission concurrence to implement a public works specific project referenced in the proposed amendment. The Commission approved the Crystal Cove PWP with conditions on May 20, 1982 (PWP 4-82), and subsequent to that action, approved a number of public works projects (PWP 4-82-1 through PWP 4-82-13). As a condition of approval of the PWP in 1982, the Commission required preparation and approval of the *Crystal Cove Historic District Development and Public Use Plan* and *On-site Maintenance Program*.

The *Crystal Cove Historic District Development and Public Use Plan* (accepted by the Commission in August 1982) provided a detailed analysis of conditions at the site at the time. The Plan included an examination of the interiors and exteriors of the building, a matrix of findings, plan for development and public use, and recommendations for relocation of tenants. The Plan concluded that almost all of the structures could be retained and converted to an adaptive use. The Plan laid out the two objectives of the Historic District: 1) to preserve and protect the special quality of this unique example of a Southern California beach community and 2) to provide full public use and enjoyment of the historic district in a manner consistent with the preservation purpose. A variety of adaptive uses were identified in the 1982 Plan. These include the following:

- *Hostel Uses*
- *Overnight Rental Units*
- *Interpretive Uses*
- *Various Group Uses including, environmental education classes; marine studies, art and photography classes and seminars, small workshops/conferences, and student intern programs;*
- *Docent/Volunteer Uses;*
- *Park Administrative Uses;*
- *Food and Sundry Goods—Concession Uses.*

The *On-site Maintenance Plan* (also accepted by the Commission in August 1982) identified specific measures and techniques to be taken to safeguard the Historic District properties from deterioration or damage. The plan outlined concession operation and maintenance, responsibilities of park ranger staff residing on-site, utility upgrades and emergency access.

The proposed amendment would replace the *Crystal Cove Historic District Development and Public Use Plan* and *On-Site Maintenance Program* with the *Crystal Cove Historic District Preservation and Public Use Plan (PPUP)* and update the *Crystal Cove General Plan* references to the Historic District.

The amendment identifies adaptive public uses for the Historic District's historical structures and landscape, largely consistent with the concepts anticipated in the Certified PWP. In addition to the PWP amendment, DPR is requesting specific project review by the Commission of the "First Phase Implementation" activities associated with the PPUP, including cottage rehabilitation, public access improvements and utility upgrades, as will be described in the following section.

While developing the current plan for future use of the Historic District, DPR developed the *Investigations and Interim Development Plan* (2001). The project included development that was both contained in, and consistent with, the public works plan and development which was not contained in the Crystal Cove PWP. The Commission found that the proposed interim work was not previously contemplated in the PWP and therefore required a Commission-issued permit. On November 13, 2001, the Commission approved Coastal Development Permit No. 5-01-269, which allowed implementation of the *Investigations and Interim Development Plan* for the Crystal Cove Historic District, including the placement of an interim sewage holding system; conversion of certain cottages to an interpretive center, lifeguard headquarters and temporary staff housing; installation of signage; and repairs to cottages, boardwalk and stairways. The project involved short-term structural repairs and improvements to maintain the cottages while the long-term plan (*Preservation and Public Use Plan*) was being developed.

B. Project Location and Description

Crystal Cove State Park is located in Orange County between the communities of Corona del Mar to the north and Laguna Beach to the south (Exhibit 1). The 2,791-acre State Park includes a 3.25-mile long coastal section west of Pacific Coast Highway (PCH) and several inland areas, as shown in Exhibit 2. The proposed project site is the Crystal Cove Historic District, located on the seaward side of PCH. The Historic District consists of forty-six (46) seaside cottages. The Historic District was listed on the National Register of Historic Places in June 1979 for its significance as a unique self-contained Southern California coastal community with a vernacular character that has remained intact since the 1930s. The cottages were previously leased as private residential units, but have been vacant since the tenants were required to move out in July 2001.

Since the departure of the cottage tenants in 2001, DPR assumed all routine maintenance responsibilities of the Historic District while developing a plan for long-term use of the site. DPR conducted several planning efforts to preserve and manage the Historic District prior to 2001, but abandoned them after public controversy and tenant litigation. DPR cancelled the implementation of one recent planning effort, a resort concession contract, early in 2001 after public concerns were expressed. With the cancellation of the resort concession contract, DPR reinitiated planning efforts for the Historic District. The current *Preservation and Public Use Plan* and associated Final Environmental Impact Report (FEIR) are a culmination of those recent efforts.

The PPUP contains four parts—1) Context for Plan Proposals, 2) Preservation and Public Use Proposals, 3) General Plan Amendment Needed to Implement New Proposals and 4) Maps and Supplementary Charts. Part 1 provides background material and describes the Historic District's historical and natural resource values, planning history, planning influences and constraints. Part 2 offers planning and design guidelines for the adaptive use of the Historic District. Part 3 includes the proposed General Plan amendment language, with explanations for the proposed changes.

The FEIR evaluates both the long-term effects of the PPUP and the project level implementation effects of the proposed improvements, including the First Phase Implementation efforts. In this case, the PPUP is

considered the public works plan amendment (4-82-A2) and the First Phase Implementation activities are considered the Specific Project (4-82-14).

PPUP Part 1

Part 1 (Context for Plan Proposals) provides background information and outlines the resource and historical context for the recommendations contained in the PPUP. This part of the report describes the location, cultural and natural features, and planning history of the Historic District. Within the “Planning History” section, the 1982 *Crystal Cove General Plan*, hostel planning, 1994 Legislative Report and the 2001 *Interim Preservation and Protection Plan* are discussed.

As referenced previously, the General Plan for Crystal Cove State Park was certified by the Commission in 1982. The General Plan was prepared following park acquisition in 1979. The General Plan provides comprehensive guidelines for the preservation, management and development of the entire state park, including the Historic District. The General Plan includes recommendations for the Historic District that promote preservation, public access and adaptive reuse of the cottages.

The 1994 Legislative Report provided a comprehensive inventory of the Historic District, including project cost, economic information and evaluations. The Legislative Report also refined and expanded Historic District plans and recommendations. At that time, the report recommended that a concessionaire rehabilitate and operate overnight accommodations at the Historic District. State Parks ultimately abandoned the concession project approach suggested in the Legislative Report. However, the information provided in the report is useful for evaluating cottage conditions and project costs.

Part 1 also discusses hostel planning efforts, including the Memorandum of Understanding (MOU) between State Parks and the Coastal Commission. On June 6, 1991, State Parks and the Commission entered into a five-year MOU agreement for the purpose of establishing a hostel or low cost overnight accommodation visitor facility at Crystal Cove. At the time, the Commission had approximately \$1.4 million to be applied towards a hostel project that resulted from a separate permit requirement. The funds were placed in an interest bearing account and now total over \$2.9 million. The original MOU expired in 1996 by its own terms. A revised MOU was completed and transfer of funding for low-cost accommodations at Crystal Cove was completed in June 2002 (Exhibit 3). As described in the PPUP, the current MOU terms include:

- ◆ *A hostel and/or low-cost overnight visitor serving accommodations should be established in Crystal Cove State Park.*
- ◆ *Number of accommodations should not be less than 90 except where costs could not be feasibly limited to the funding amount and also would prevent reasonable operation as low-cost visitor-serving units. The number of accommodations shall not be less than 65 in any event.*
- ◆ *The overnight rates for hostel or low-cost accommodations should be similar to other hostel or low-cost visitor-serving facilities providing comparable amenities (such as plumbing and electricity)*

PPUP Part 2

Part 2 (Preservation and Public Use Proposals) contains the preponderance of information regarding the manner in which the Historic District structures will be rehabilitated and adaptively reused. This part of the report establishes general goals, program uses and activities to be accommodated in subsequent specific projects. Part 2 provides design criteria and structural requirements for the Historic District. Utility upgrades and plan implementation phases are also discussed.

Part 2 describes the seven planning areas within the Historic District. They include the Entrance Area and Pacific Coast Highway Edge, the Historic District Village Center/Hollow, South Beachfront, North Beachfront, Blufftop and Los Trancos. These areas are depicted in Map 1 (Exhibit 4).

This section of the PPUP also provides the vision, goals, objectives and guidelines for the Historic District. As stated in the report, the 1982 Crystal Cove Historic District Development and Public Use Plan established the following two part public goal for the Historic District:

First to preserve and protect the special quality of this unique example of a Southern California beach community; and second, to provide full public use and enjoyment of the Historic District in a manner consistent with the preservation purpose.

State Park's goal at the Historic District has been to provide visitors with broad public access and a unique experience of what a Southern California seaside community was like in the 1920s and 1930s. State Parks intends to provide public access and preserve the character and integrity of the Historic District while converting the buildings to a variety of appropriate adaptive public uses. The objectives in the PPUP are outlined under the headings of Cultural Resources Preservation, Natural Resources Preservation, Accessibility/Recreational Opportunity, Cottage Adaptive Use, and Community-Building.

Visitor capacity, access and parking are discussed in this part of the PPUP. Past visitor attendance figures are evaluated and future visitor capacities and occupancies are estimated. The future use intensity or visitor capacity for Crystal Cove is evaluated for the Historic District and the beach area. Based on the proposed PPUP adaptive uses, the estimated visitor capacity within the Historic District will be 246 visitors per day. According to DPR calculations, a maximum number of 1,956 visitors per day could be physically accommodated on the beach in front of the cottages.

The PPUP provides an estimate of parking and amenities necessary to serve the expected visitors to the Historic District and beach. The majority of parking to serve the various uses at the Historic District and beach will be provided at the Los Trancos parking lot (389 standard spaces and 5 ADA spaces). Some parking, including ADA parking and authorized staff parking, will be provided within the Historic District (approx. 50 spaces). Parking within the Historic District will be limited in order to preserve the pedestrian character of the area and to reduce the need to alter the site through the creation of new parking areas. One new 20-space parking lot will be created within the Blufftop Area of the Historic District. This area will provide 10 spaces for overnight check-in, visitor orientation and deliveries, 2 spaces for authorized vehicles (State Parks employees), and 8 spaces for the Cultural Center and other parking related to scheduled on-site activities.

The various programs and activities proposed at the Historic District are also discussed in this part of the PPUP. They are divided into four categories, including the 1) Operations Program, 2) Interpretation and Community Arts, Resources and Education Program, 3) Overnight Accommodations and Rentals Program and 4) Visitor Services Concession Program. Chart H--Matrix of Proposed Adaptive Uses identifies the proposed use of each cottage by program area (Exhibit 5). Map 6-Adaptive Use Map illustrates the various components of the PPUP.

Operations Program

The Operations Program will provide the security, safety, resource protection, and sanitation needs for the park. The PPUP discusses staffing needs and facility guidelines for the Operations Program. This program will require space for park operations and maintenance staff, a lifeguard substation, a research facility and park staff security housing. Eight (8) cottages will be needed to serve the Operations Program. Of these eight, five (5) staff security-housing cottages are recommended in the PPUP to provide on-site surveillance and security.

Community Arts, Resources and Education Program

The Community Arts, Resources and Education Program will allow visitors to learn about the Historic District's cultural, historical and natural resources through various media. The State Parks interpretive staff will coordinate this program's education efforts. Programs will be created and conducted by both State Parks interpreters and volunteer docents and facilitators. Classes, meetings and tours may be provided through this program. Five (5) cottages will be required for the Community Arts, Resources and Education Program.

Overnight Accommodations Program

As described in the PPUP, the Overnight Accommodations Program will provide "general public access to affordable short-term overnight accommodations in designated cottages within the Historic District." The program involves the renovation of certain cottages to accommodate overnight visitors in either individual-style accommodations or dormitory-style accommodations. The program also requires a rental office, manager's quarters and registration area. Thirty (30) cottages will be required for the Overnight Accommodations Program. However, the number of sleeping accommodations is not specifically addressed in this section of the PPUP.

Visitor Services Concession Program

The Concession Program will allow DPR to contract with outside parties to provide food service, beach supplies and rentals, visitor transportation (such as shuttle services) management of overnight accommodations, and other visitor services. As described in the PPUP, concessions will help provide appropriate services that DPR may not have the resources or expertise to provide. Three (3) cottages will be required for the Concession Program.

This section of the PPUP outlines the manner in which the cottages will be restored. Due to the Historic District's status as a National Register property, the structures must be rehabilitated in a manner which preserves the historic vernacular landscape. As such, the PPUP indicates that a Historic Landscape Management Plan (HLMP) will be prepared for the Historic District. The HLMP will provide site-specific guidelines for the rehabilitation and long-term managements of the CCHD and all its contributing features and elements. The PPUP acknowledges that these guidelines should be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes*.

It is in Part 2 of the PPUP that the following is stated:

"There is much that State Parks and involved community members can learn only during the implementation phases of the Preservation and Public Use Plan so this plan is written to try to avoid unduly tying the hands of those who will be encountering these unpredictable realities later. The Preservation and Public Use Plan will provide the direction of general policies, goals, objectives activities and desired facilities and functions, but will not specifically dictate

how long-term objectives will be accomplished and managed, the Preservation and Public Use Plan's short-term objectives are given definition in the form of initial (Phase 1) implementation recommendations. The details of cooperating and concession agreement, participating organizations, budgeting, and management will be left to future implementation processes."

The Commission acknowledges that issues may arise in the future that could not be anticipated during the preparation of the PPUP. However, a Public Works Plan is intended to "*promote greater efficiency for the planning of any public works or state university or college or private university development projects and as an alternative to project-by-project review.*" (Coastal Act Section 30605) As such, a PWP must provide an adequate level of specificity to anticipate and evaluate the effects of specific projects to be undertaken pursuant to the certified plan. Where specificity is lacking, projects must obtain an amendment to the Public Works Plan or a coastal development permit issued by the Commission. Therefore, it is in the Department of Parks and Recreation's best interest to provide as much detailed information in the Crystal Cove PWP as possible to prevent the need for project-by-project review in the future.

PPUP Part 3

Part 3 (General Plan Amendment Needed to Implement New Proposals) of the PPUP provides an update to those sections in the *Crystal Cove State Park General Plan* that pertain to the Historic District. This part discusses the proposed General Plan amendment and provides specific language revisions necessary to implement the PPUP, as shown in Exhibit 7. New language proposed by DPR is shown in **bold**. Language to be deleted is in ~~strike-out~~.

Final Environmental Impact Report (FEIR) and Specific Project

The proposed specific project (4-82-14), referred to as "First Phase Implementation," is described in the FEIR for the *Preservation and Public Use Plan* (PPUP). The specific project includes cottage preservation and adaptation, circulation and visitor management improvements, utility upgrades, slope stabilization, and site accessibility improvements. The list provided below identifies work to be carried out in the First Phase. A full project description and project plans are included as Exhibits 8 and 9.

First Phase Implementation Activities:

1. *Water, sewer and electrical main connections*—Utilities will be upgraded to accommodate the proposed uses at the Historic District.
2. *Main sewer system and some localized pump units*—Sewage from the Historic District will be lifted to the municipal sewer gravity line at PCH via two pump stations.
3. *Entry kiosk and turnaround*—A new kiosk will be constructed within the main entrance road. An attendant will direct incoming traffic.
4. *Operations parking*—Authorized vehicles (State Parks employees) will be allowed to park in the new 20-spaces parking lot in the Blufftop Area and at smaller lots within the CCHD.
5. *Parking area abandonment*—Existing parking areas will be relocated and resurfaced with pervious surface material.
6. *Entrance road widening*—Roads will be widened to 20' to accommodate emergency vehicles and two-way traffic.
7. *Bluff Top entrance road widening*
8. *Resurfacing of some existing roads*—Pervious material will be used where possible.

9. *Park shuttle drop off*—to be located directly outside the Hollow area.
10. *New trail at northwestern edge of site*—Trail will provide connection to PCH and will eliminate conflicts with vehicle traffic.
11. *New Pacific Coast Highway stairway*—A stairway will replace an existing unofficial dirt trail that provides access to the Shake Shack (adjacent to PCH) from the Historic District.
12. *Restorations/reconstructions of existing stairways and boardwalk*—Timber piles and stringers will be replaced along beachfront boardwalk below grade so as not to inhibit wave overtopping or movement of beach sand.
13. *ADA parking/drop-off*—to be located within the Hollow
14. *Concessions, operations, dormitory, ADA, education/research, museum, visitor check-in, and community uses rehabilitations/restorations*
15. *Use of seasonal tents to accommodate special events, restrooms, etc. in keeping with the historic period theme of tents intermingled with the cottages*
16. *Reconstruction of pedestrian bridge across Los Trancos Creek*—A single span accessible bridge will be constructed across Los Trancos to replace the original destroyed by flooding in 1997. Construction activities will be limited to areas outside the stream channel.
17. *Replacement and upgrade of retaining wall systems on South Beach*—Several walls are failing and must be replaced in order to preserve the cottages. New walls will be of the soil nail type and restored to a surface compatible with the Historic District.

C. Proposed Amendment Consistency with the Coastal Act

Pursuant to Section 30605 of the Coastal Act,

If any plan for public works or state university or college development project is submitted prior to certification of the local coastal programs for the jurisdictions affected by the proposed public works, the commission shall certify whether the proposed plan is consistent with Chapter 3 (commencing with Section 30200).

The Crystal Cove Public Works Plan was certified by the Commission in May 1982. The Newport Coast (formerly Irvine Coast) Local Coastal Program (LCP) was certified by the Commission in January 1988. The Newport Coast LCP acknowledges that Crystal Cove State Park is certified separately under the PWP. Therefore, the standard of review for this public works plan amendment are the Chapter 3 policies of the Coastal Act.

Although formal local agency approval was not required, DPR consulted with the City of Newport Beach, the City of Laguna Beach, and the County of Orange when developing the PPUP. DPR also consulted with the Irvine Ranch Water District, the Orange County Sanitation District, the Regional Water Quality Control Board (Region 8), the US Fish and Wildlife Service, Caltrans and the Department of Fish and Game. According to DPR staff, *"Orange Coast District staff [of DPR] had regular contact with local agency representatives and provided brief planning updates, but there were no requests for specific PPUP briefings or involvements.* A summary of consultations and discussions with agency representatives is provided as Exhibit 10.

Public Access

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The proposed development is located between the first public road and the sea at Crystal Cove State Park. As defined by Section 30106 of the Coastal Act, *"development"* means change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed Public Works Plan amendment allows for structural repairs and conversions in use of the former residential cottages. Road widening, utility upgrades and parking lot construction is proposed during the various phases of the Historic District renovation. Due to the proposed change in intensity of use and associated construction activities, the project is considered development under the Coastal Act.

The Coastal Act provides that development should maintain and enhance public access to the coast and encourages the provision of lower cost visitor and recreational facilities. Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast. It states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. It states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Public access and recreation is discussed in the Land Use and Facilities Element of the Certified PWP General Plan as follows:

The emphasis for recreation use at Crystal Cove State Park will be placed on providing a variety of appropriate recreation opportunities to enhance visitor enjoyment of the park.

General Plan objectives #3 and #5 state the following:

- 3. To provide opportunities for a variety of recreational uses of low to high intensity that will be compatible with the surroundings, and consistent with the park purpose.*
- 5. To protect and interpret the significant natural and cultural resources of the park.*

Overnight Accommodations

As cited previously, Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. The PPUP provides for increased visitor-serving development at the Historic District in the form of both day use and overnight use. Day use activities will be provided through the Interpretation and Community Arts Resources and Education Program, which will provide indoor and outdoor classrooms, house museums, an underwater park educational facility and a community exhibits and art demonstration area. Overnight use will be provided through the Overnight Accommodations Program, which will allow the public to rent individual style cottages or dormitory style cottages.

Although the Commission supports the increased public use of the cottages, it is unclear how many cottages will be used for each program. According to Map 5 (Adaptive Building Uses), of the 46 cottages and various “out-buildings” at the Historic District, eight (8) will be designated for the Operations Program, five (5) will be used for the Interpretation and Community Arts Resources and Education Program, thirty (30) will be used for the Overnight Accommodations Program and three (3) will serve the Beach Store/Snack Bar Concession Program. However, in Chart H (Matrix of Proposed Adaptive Uses), more than one use is assigned to some cottages. For example, Cottage 2 is slated for “individual style accommodations” or “park operations & maintenance use.” The Commission is concerned that too many cottages will be used for State Parks operational use, rather than being used for visitor-serving uses. This concern was also addressed at the Parks and Recreation Commission. As stated in the “Staff Directed Changes” (Exhibit 11):

In consideration of concerns about the quantity of Operations Program cottages, the following clarification is proposed:

Parks Operation Program (p. 107)

The additional fourth paragraph will be added to the general description of the Operations Program: "If determinations are made by the Department that it can perform its responsibility and effectively manage the Historic District with fewer cottages than recommend in the PPUP, any available surplus cottages should be redesignated for visitor-serving use in the Overnight Accommodations Program or the Park Interpretation and Education Program."

The PWP must incorporate the "Staff Directed Change" cited above and provide further clarification regarding the number of cottages used for each program in order to ensure that adequate visitor-serving uses are provided within the Historic District. Toward this end, the Commission imposes Condition 1. Condition 1 requires that the PWP identify the minimum and maximum number of cottages to be used for each program. The condition specifies that no more than eight (8) cottages shall be used for the Operations Program.

Once the range of cottages used for each program is clarified, the number of overnight accommodations must also be more specifically defined. The PPUP and corresponding documents include general information regarding the number of accommodations to be provided. The text of the PPUP states, "*the primary rental consideration is actually the number of 'keys' or separate rental spaces and not the number of cottages. A fair number of existing cottages have multiple separate 'keyable' subunits or might be easily subdivided.*" However, the number of keys, or beds, is not specified in the PPUP. Although a minimum of 65 beds is addressed in the PPUP in order to comply with the MOU, the PPUP does not clearly establish a minimum or maximum number of beds to be provided. After subsequent discussions with State Parks staff, occupancy information was submitted in a spreadsheet entitled "Crystal Cove SP-HD Proposed First Phase Use Adaptations/Rehabilitations" dated 5/15/03 (Exhibit 12). The information submitted focuses on the First Phase Implementation of the project, which is being considered as a specific project (4-82-14) concurrent with the proposed amendment. The specific project will be discussed in Section D of the current staff report.

According to the spreadsheet provided by DPR, of the 30 cottages to be used for overnight use, 13 cottages will be provided in the First Phase. These include cottages 1, 2, 16, 18, 19, 24, 27, 29, 32, 33, 37, 38, and 39. The individual-style cottages will accommodate 4 to 10 occupants per night. Dormitory-style cottages will accommodate 10 to 20 occupants. Consequently, occupancy will range from 80 to 140 in the First Phase. Subsequent phases will provide additional sleeping accommodations. After completion of First Phase Implementation, the remaining cottages recommended in the PPUP for overnight cottage adaptive use are: 3, 4, 6, 7, 8, 9, 10, 11, 12, 20, 23, 25, 26, 31, 36, 37, and 40. The cumulative number of bedrooms for these cottages from 1994 Legislative Report inventory survey is 36. Assuming a minimum of two beds per bedroom, approximately 72 additional beds will result from future CCHD rehabilitation phases. Room size and configuration as well as rehabilitation design/feasibility/accessibility evaluations will determine actual bed count in each phase of project implementation.

The occupancy information provided above was submitted in a supplemental spreadsheet and is not incorporated in the PWP document. To ensure that maximum overnight public use is provided, the Commission imposes Condition 2. Condition 2 requires that the range of cottage occupancies be specified in the PWP. The condition requires a minimum of 65 keys be provided in the First Phase, consistent with

the MOU between State Parks and the Coastal Commission.² While Condition 1 requires clarification of cottage use, Condition 2 requires further specification of the number of overnight accommodations to be provided.

Similarly, rate information for the Overnight Accommodations Program was not provided in the PPUP, but was submitted subsequently. A *Preliminary Fiscal/Operations Plan for Crystal Cove Historic District* prepared by Williams-Kuebelbeck & Associates, Inc. was submitted on May 13, 2003 (Exhibit 13). The Fiscal/Operation Plan provides a market overview, program guidelines, projected operations and describes the use of operating surpluses. The purpose of the report is to “*assist in determining the long-term feasibility and fiscal implications of operating overnight accommodations at Crystal Cove in accordance with the goals and objectives of DPR.*” The report evaluates lodging operations in California State Parks, hostels near the coast, and resorts in the local market for comparative purposes. The Fiscal/Operations Plan analyzes a range of rates for be charged at the Historic District—from \$25 per night for the dormitory accommodations to \$100 to \$150 per night for the individual cottages. Based on the location and amenities offered at the Crystal Cove Historic District compared to lodging in State Parks and hotels in the local market, the rate structure established for the Historic District is determined to be below market rate. As such, the proposed rate structure is consistent with Section 30213 of the Coastal Act, which requires the provision of low cost visitor-serving uses. However, the rates must be formally included in the PWP to assure that they are maintained at an affordable rate. Therefore, the Commission imposes Condition 3, which requires that the rate parameters outlined in the Fiscal Operations Plan be included in the PWP. The condition requires the rates be maintained at a rate comparable with fees charged at similar State Parks system facilities. This will allow for flexibility to adjust the price as necessary, while maintaining the affordability of the cottages.

The conditions imposed by the Commission regarding overnight accommodations require the establishment of more detailed parameters for visitor serving uses in order to ensure the maximum provision of public access at the Crystal Cove Historic District. The Commission finds that, only as modified by Conditions 1, 2 and 3, can the amendment be found consistent with the public access and recreation policies of the Coastal Act.

Parking

One of the strongest legislative mandates of the Coastal Act is the preservation of coastal access. Section 30252 of the Coastal Act requires that new development maintain and enhance public access to the coast by providing adequate parking or alternative means of transportation. When new development does not provide adequate on-site parking and there are inadequate alternative means of reaching the area (such as public transportation), users of that development are forced to occupy public parking that could be used by visitors to the coast. A lack of public parking and public transportation will discourage visitors from coming to the beach and other visitor-serving activities in the coastal zone. A parking deficiency will therefore have an adverse impact on public access.

² Pursuant to the MOU, “If the proposed plan is for less than 132 sleeping accommodations, the Department shall explain in detail the reasons that the total number of accommodations cannot be provided. ...The number of accommodations shall not be reduced below 90 except upon a showing that the costs cannot feasibly be limited to the amount available in the fund, and that the costs would prevent reasonable operation of the accommodations as low-cost visitor serving units. In no event shall the number of units established with the funds provided pursuant to this MOU be less than 65.”

As described previously, the majority of parking to serve the Historic District will be provided at the Los Trancos parking lot located inland of PCH. The Los Trancos parking lot will provide 394 spaces (389 standard spaces and 5 ADA spaces). A tunnel leads from the parking lot to the Historic District on the seaward side of PCH. A temporary State Parks office facility located within the Los Trancos parking lot will become permanent under the proposed amendment. However, use of the parking lot for an office takes up area that could be used for public parking. According to comments in Chart 1 (Guidelines for Park Operations Program) of the PPUP, the Los Trancos office will be utilized for “*non-CCHD park needs*” and as a staging area for CCHD visitor groups. If the office is to remain in that location, effectively displacing public parking, it should serve Historic District only. Therefore, the Commission imposes Condition 4 (a), which requires the Los Trancos parking lot to be designated for Historic District uses in the PWP.

In addition to the parking available at Los Trancos, there will be limited parking available within the Historic District. Approximately 50 parking spaces will be provided in various lots throughout the Historic District. A minimum of 9 ADA parking spaces will be provided. A new 20-space lot is proposed in the Blufftop Area. The PPUP indicates that the new lot will be used for “authorized vehicles, overnight registration, and multi-use facility operations.” However, the document does not specify the allocation of parking within this lot. DPR has clarified the uses in subsequent correspondence. To ensure that maximum public parking is provided, the Commission imposes Condition 4b. The condition requires the use of the new twenty-space parking lot to be allocated as follows: ten (10) spaces for 15-minute overnight check-in, visitor orientation and deliveries, two (2) spaces for authorized State Parks vehicles, and eight (8) spaces to serve activities at the Cultural Center.

The proposed amendment also includes a public drop-off area within the Historic District. The general public will be allowed to drop off beach equipment such as coolers, chairs, dive gear, etc., near the existing garage area and then park their vehicles at the Los Trancos lot. Alternative access programs, such as a public shuttle are also contemplated in the PPUP.

As conditioned, the parking provided for the proposed amendment is considered adequate to serve the proposed uses at the Historic District. Therefore, the Commission finds the amendment, as conditioned, consistent with Section 30252 of the Coastal Act.

Environmentally Sensitive Habitat Areas

Coastal Act Section 30240 addresses sensitive species and/or habitats and states in full,

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30107.5 of the Coastal Act defines an environmentally sensitive areas as follows:.

“...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The Crystal Cove Historic District is located within a State Park that features approximately three miles of coastline, wooded canyon, brush-covered bluffs and offshore waters designated as an Underwater Park. The Historic District contains primarily ornamental non-native vegetation. The bluffs and terraces adjacent to the Historic District support southern coastal bluff scrub and coastal sage scrub. Exhibit 14 provides an illustration of “Sensitive Terrestrial Species.” Additionally, two rare plant species are known to occur on the coastal terrace, including many-stemmed dudleya and Turkish rugging.

The park is located within the Reserve System identified in the Natural Community Conservation Plan & Habitat Conservation Plan, County of Orange, Central Coastal Subregion (NCCP/HCP). As described in the FEIR, the purpose of the NCCP/HCP is to provide “*long-term regional protection an perpetuation of natural vegetation and wildlife diversity, while allowing compatible and appropriate development and growth.*” The program requires that construction-related measures be integrated to minimize impacts to gnatcatchers and other sensitive coastal sage scrub (CSS) species. New development proposed as part of the PWP amendment will be located in the Reserve System. According to DPR staff, up to 18 acres of “take” within the NCCP/HCP area is available for implementation of the Crystal Cove General Plan. Regardless of the “take” credits available through the program, the NCCP/HCP requires that any impacts to habitats within the Reserve System that occur in accordance with the Crystal Cove General Plan be evaluated by the regulatory agencies and appropriate mitigation be determined. As such, the Commission and other regulatory agencies have the opportunity to review the project for consistency with the appropriate standard of review. In this case, the standard of review is Section 30240 of the Coastal Act, which restricts development impacts within or adjacent to sensitive areas.

According to the FEIR, actions involving the manipulations of vegetation to accommodate an entrance road kiosk/turnaround, road widening, stairways, and trails to improve circulation have the potential to affect special status CSS habitat and sensitive plan species. A 100-foot wide vegetation transition zone, which will serve as a fuel modification zone for the Historic District, may also affect special status CSS habitat. Proposed improvements, including the 100 foot transition zone, will affect 6 acres or less of CSS habitat. According to the PPUP, temporarily disturbed areas will be replaced at a 1:1 ratio with appropriate plant species, either historic landscape plantings or CSS species.

Mitigation is incorporated in the FEIR to avoid or minimize impacts to CSS. In addition, impacts to CSS will be mitigated through the NCCP bank at a 1:1 ratio. However, the FEIR relies heavily on the NCCP/HCP program, which has not been reviewed for consistency with the Coastal Act. In order to assure consistency with Section 30240 of the Coastal Act, the Commission imposes Condition 5. Condition 5 requires the PWP be modified to include language to address development within and adjacent to environmentally sensitive habitat area (ESHA), as defined above. The condition, mirroring Section 30240 of the Coastal Act, requires ESHA to be protected and limits allowable development within or adjacent to ESHA. In addition, the PWP must specify that future projects that involve potential impacts to ESHA must come back to the Commission for review. The condition requires a site-specific biological survey to accompany any specific project approval or CDP application so that a determination of ESHA can be made. As conditioned, the Commission finds the proposed amendment consistent with Section 30240 of the Coastal Act.

Updates and Typographical Corrections

The PPUP text and graphics contain outdated information and minor typographical errors. As such, the Commission imposes Condition 6, which requires that various changes be incorporated into the final Public Works Plan document:

Final Document Format

Although not a condition of PWP amendment approval, the Commission requests that State Parks consolidate the *Crystal Cove Public Works Plan* into one document for easier reference and use. In addition to the main documents referenced above, several supplemental documents, including the *Fiscal and Operations Plan*, “Staff Directed Changes” and First Phase Use Adaptation/Rehabilitations spreadsheet, were submitted. At a minimum, the General Plan, PPUP and FEIR should be modified to reflect the Commission-imposed conditions, the supplemental information submitted, and made internally consistent and condensed into one comprehensive document.

D. Proposed Specific Project Consistency with the Coastal Act

Under CCR § 13358, the Commission may concurrently consider a public works plan amendment and specific project(s). The standard of review for public works projects, when submitted concurrently with an amendment, is that they must be consistent with the Coastal Act (CCR § 13358).

As discussed, the DPR is requesting authorization to proceed with the First Phase Implementation Plan. First Phase Implementation includes:

1. Water, sewer and electrical main connections
2. Main sewer system and some localized pump units
3. Entry kiosk and turnaround
4. Operations parking
5. Parking area abandonment
6. Entrance road widening
7. Bluff Top entrance road widening
8. Resurfacing of some existing roads
9. Park shuttle drop off
10. New trail at northwestern edge of site
11. New Pacific Coast Highway stairway
12. Restorations/reconstructions of existing stairways and boardwalk
13. ADA parking/drop-off
14. Concessions, operations, dormitory, ADA, education/research, museum, visitor check-in, and community uses rehabilitations/restorations
15. Use of seasonal tents to accommodate special events, restrooms, etc. in keeping with the historic period theme of tents intermingled with the cottages
16. Reconstruction of pedestrian bridge across Los Trancos Creek
17. Replacement and upgrade of retaining wall systems on South Beach

Public Access and Recreation

As discussed in the Section C, Section 30213 of the Coastal Act requires the provision of low cost visitor serving uses.

Overnight Accommodations

The specific project submittal did not specify the number of cottages to be used for each program, including the Overnight Accommodations Program. Instead, multiple options were presented for each cottage. In order to ensure that maximum public access opportunities are provided in the First Phase, the Commission imposes Condition 1, which requires DPR to provide an accounting of the number of cottages to be used for each program. DPR must also specify the exact number of “keys,” or beds, to be provided in the First Phase. As such, the Commission imposes Condition 2, which requires a numerical specification of beds. In order to maintain consistency with the overnight accommodations requirements of the MOU, a minimum of 65 overnight accommodations must be provided in Phase 1. Lastly, the rate charged for overnight accommodations in the First Phase must be specified. Supplemental information provided by DPR staff indicates that \$25 will be charged for the dormitory-style cottages, and \$100-150 will be charged for the individual style cottages. It is unclear if the range will vary based on season or cottage size/amenities. This must be clarified in order for a First Phase rate structure to be established. Therefore, the Commission imposes Condition 3, which requires a clarification of the specific rates charged in the First Phase to be submitted to the Executive Director for review and approval.

In summary, the proposed First Phase Implementation Project raises three public access or recreation issues relating to the Overnight Accommodations Program. These issues can be addressed by 1) clarification of the specific number of cottages provided for each program in the First Phase; 2) identification of the specific number of overnight accommodations provided in the First Phase and 3) specification of a specific rate charged for overnight accommodations in the First Phase. Therefore, the Commission finds that, only as modified by Conditions 1, 2, and 3, can the proposed public works project be consistent with the public access and recreation policies of the Coastal Act.

Parking

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast.

The project involves the construction of a new parking lot within the Historic District. As initially submitted, it is unclear how parking use will be divided among State Park employees and visitors to the Historic District. DPR staff provided subsequent information stating that the parking lot will be used as follows: ten (10) spaces for 15-minute overnight check-in, visitor orientation and deliveries, two (2) spaces for authorized State Parks vehicles, and eight (8) spaces to serve activities at the Cultural Center. To ensure that the new parking lot provides maximum public access, the Commission imposes Condition 4. Condition 4 requires DPR to submit a signage plan for the parking lot in accordance with the use allocations they have proposed. The plan must include the language of the sign/stencil, dimensions of each sign/stencil and the location of sign/stencil placement.

The Commission finds the proposed specific project, as conditioned, consistent with the public access and recreation policies of the Coastal Act.

Environmentally Sensitive Habitat Areas

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As cited previously, Section 30240 of the Coastal Act requires protection of environmentally sensitive habitats and requires development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts which would significantly degrade those areas.

While the Historic District contains primarily ornamental non-native vegetation, the bluffs and terraces on either side of the Historic District support native vegetation of southern coastal bluff scrub and coastal sage scrub (CSS). This habitat supports the federally threatened California Gnatcatcher and other native wildlife species. Additionally, two rare plant species are known to occur on the coastal terrace, including many-stemmed dudleya and Turkish rugging. As discussed in Section C, projects in Crystal Cove State Park are covered by the Natural Community Conservation Plan & Habitat Conservation Plan (NCCP/HCP), County of Orange, Central Coastal Subregion. According to the NCCP/HCP program, DPR has 18 acres of “take” credit. However, as stated previously, the NCCP/HCP has not been evaluated for consistency with the Coastal Act and therefore, cannot be used as guidance for projects undertaken pursuant to the PWP. The standard of review is Section 30240 of the Coastal Act.

Approximately six (6) acres of coastal sage scrub will be removed for new construction associated with the First Phase Implementation activities (Specific Project). Some of the proposed work, including slope stabilization, stairway construction, parking lot construction and road widening, has the potential to affect sensitive resources. As such, DPR has evaluated the project area and established a “Sensitive Terrestrial Species” Map (Exhibit 14). Work will be sited in a way that will minimize impacts to sensitive areas. In addition, a State Park ecologist will monitor all activities to prevent potential impacts to rare plants or the gnatcatcher. The FEIR determined that mitigation for disturbance of CSS for activities associated with the First Phase Implementation project would be mitigated to a less than significant level. CSS areas will be avoided where possible and mitigation of 1:1 will be provided if any take occurs.

In the area of the proposed Blufftop Parking lot, approximately $\frac{1}{2}$ to $\frac{3}{4}$ acre of low quality CSS will be removed. DPR has indicated that this is the minimum amount necessary to accommodate the new parking lot. Additionally, a site-specific biological survey has been provided for the proposed parking lot so that a determination of environmentally sensitive habitat area (ESHA) can be made. The areas of disturbance for the new parking lot and road widening activities will be limited to those with low quality coastal sage scrub, which do not rise to the level of ESHA. Although the areas are not considered ESHA, appropriate mitigation is required. As such, the Commission imposes Condition 5, which requires that the 6 acres of coastal sage scrub affected during First Phase activities be replaced at a 2:1 ratio, consistent with past Commission actions. The condition requires the replacement to occur on-site. Mitigation credits from the NCCP/HCP cannot be applied.

As shown on the Adaptive Use Map (Exhibit 6), a new stairway will be sited in a denuded area between exotic plants and coastal sage scrub. Construction of the new stairway from the cottages to the Shake Shack has the potential to affect coastal sage scrub. The stairway is considered necessary to prevent further erosion and vegetation disturbance in an area where a footpath has been created. However, the specific siting of the stairway has not been established and specific biological information has not been provided for the proposed stairway. The Commission imposes Condition 6, which requires the submittal of final plans demonstrating that the stairway minimizes its footprint and avoids coastal sage scrub habitat. Only as conditioned for submittal of final plans, does the Commission find the proposed specific project consistent with Section 30240 of the Coastal Act.

Hazards

Section 30253 of the Coastal Act states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Wave and Flooding Hazards

The subject site at Crystal Cove Historic District is subject to seasonal wave attack. The beach located seaward of the wooden boardwalk does not adequately buffer the beachfront development from wave uprush during storm events and high tides (particularly during the winter months). Based on staff reconnaissance and acknowledgment by the applicant, waves often run up onto the boardwalk. Wave activity has caused much of the damage necessitating the current repairs to the boardwalk. These circumstances present obvious potential for wave uprush damage and flooding to occur at the subject site in the future.

Therefore, the Commission finds that it is necessary to require the preparation of an assumption-of-risk agreement (Condition No. 7). With this standard waiver of liability condition, the applicant is notified that the boardwalk and ultimately the cottages are located in an area that is potentially subject to flooding and wave uprush hazards that could damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition ensures that future tenants will be informed of the risks and the Commission's immunity of liability.

The assumption-of-risk condition is consistent with prior Commission actions for beachfront development in Orange County since the 1982-83 El Nino storms. For instance, the Commission approved CDPs 5-00-262 (Punteriero) and 5-99-477 (Watson) with assumption-of-risk deed restrictions for improvements to existing homes. In addition, the Commission has consistently imposed assumption-of-risk deed restrictions on construction of new beachfront homes throughout Newport Beach and Seal Beach, whether on vacant lots or in conjunction with the demolition and replacement of an existing home. Recent examples include coastal development permits 5-00-492 (Palm), 5-00-466 (Steffensen), 5-00-420 (Collins), 5-00-285 (Collins), 5-00-192 (Blumenthal) and 5-99-423 (Evans).

Future Protective Devices

Section 30253 of the Coastal Act requires that new development shall not require construction of protective devices that would substantially alter natural landforms. The project involves repairs to the existing boardwalk and to the existing cottages that will extend the usable life of each structure. The proposed development could not be approved as being consistent with Section 30253 of the Coastal Act if continued wave activity would affect the proposed development and necessitate construction of a shoreline protection device.

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

No shoreline protection device is currently proposed. The applicant recognizes that the site is subject to wave uprush activity, but sees no need for a seawall now or in the future. In addition, the proposed ADA path will be removable during severe storm events. More importantly, it is the position of the State Department of Parks and Recreation to discourage construction of structural protective devices.

To ensure that the applicant acknowledges and accepts the prohibition of future protective devices, the Commission imposes Condition No. 8, which requires the applicant to submit a written agreement placing the applicant and their successors in interest on notice that no protective devices shall be permitted to protect the proposed development and that the applicant waives, on behalf of itself and all successors and assigns, any rights to construct protective devices that may exist under Coastal Act Section 30235. In addition, the Commission imposes Special Condition 3 to notify the applicant that all future development at the site, including implementation of the *Preservation and Public Use Plan* (the long-term plan for the site), requires Commission approval either as a CDP or through the PWP process. As conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act.

Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Sections 30230 and 30231 of the Coastal Act require maintenance and restoration of marine resources and ensure that the biological productivity of coastal waters is upheld and restored where feasible. Specially, Section 30231 requires the quality of coastal waters to be maintained through the minimization of adverse effects of wastewater discharges. Storm water flows from the Historic District discharge into coastal waters via direct runoff or via Los Trancos Creek. As described previously, the coastal waters located directly off the Historic District are within a designated Area of Special Biological Significance (ASBS).

In addition, the site is subject to Cease and Desist Order (CDO) 00-87 issued by the Santa Ana Regional Water Quality Control Board on November 16, 2001. Discharges from nearby construction projects, Pacific Coast Highway and the Historic District septic system were suspected of contributing to non-point source pollution. As such, the CDO required the dischargers (including DPR, the Irvine Company and Caltrans) to cease and desist from discharging or threatening to discharge wastes directly to the Crystal Cove ASBS.

The proposed project involves various structural repairs (including those to the cottages and boardwalk), roadway expansion and will result in increased public use at the Historic District. As such, appropriate measures must be taken to ensure that water quality is protected. According to the FEIR, the following construction-related mitigation is proposed:

All soil disturbing activities, including grading and excavating, associated with road construction and other construction activities, will be subject to restrictions and requirements set for in resource agency permits. To ensure that the project would not result in adverse effects to water quality due to storm runoff, activities area subject to the requirements of the Clean Water Act and National Pollution Elimination System (NPDES). State Parks will use Best Management Practices throughout construction to avoid and minimize indirect impacts associated with the proposed project.

As stated above, construction activities will be subject to requirements imposed by resources agencies. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes Condition 9. Condition 9 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. Post-construction BMPs will include a combination of bio and mechanical filters. Permeable surfaces will be used where possible for new paving areas and vegetated swales will capture parking lot runoff.

The FEIR contains appropriate construction and BMPs to prevent adverse impacts on water quality at Crystal Cove. These will be supplemented by the Commission's conditions. Therefore, the Commission finds that the proposed specific project, as conditioned, is consistent with Sections 30230 and 30231 of the Coastal Act.

E. California Environmental Quality Act

The California Department of Parks and Recreation issued an Environmental Impact Report for the proposed plan amendment and specific project. Public comments were received. The Commission notes that most facilities at the Crystal Cove Historic District already exist and proposed new development is necessary to improve public access and upgrade utilities. There are no feasible alternatives, or feasible mitigation measures available, as provided in the California Environmental Quality Act, which would lessen any significant adverse impact that the Public Works Plan amendment and proposed project, as conditioned, may have on the environment.